

Paul Tanck
Greg Carbo
Neal McLaughlin
ALSTON & BIRD LLP
90 Park Avenue
New York, NY 10016
Tel: (212) 210-9400 / Fax: (212) 210-9444

Sam Bragg
ALSTON & BIRD LLP
2200 Ross Avenue, Suite 2300
Dallas, TX 75201
Tel: 214-922-3400 / Fax: 214-922-3899

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

LABORATORIOS PISA S.A. de C.V; AND
CAB ENTERPRISES, INC.,

Plaintiffs,

vs.

PEPSICO, INC.; AND STOKELY-VAN
CAMP, INC.,

Defendants.

Civ. Action No.: 7:21-CV-0062

(JURY DEMAND)

NOTICE OF EMERGENCY MOTION AND MOTION

PLEASE TAKE NOTICE that by and through their undersigned counsel, plaintiffs hereby file their Emergency Motions for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction and respectfully request that the Court set an emergency hearing on their Motions for **tomorrow**, **Friday February 19, 2021**.

The basis for plaintiffs' request for an emergency hearing tomorrow is that, unfortunately, it only just became known that the defendants intend to launch a product this Sunday, February 21, 2021 that, unless temporarily restrained by this Court, will irreparably harm plaintiffs.

Accordingly, plaintiffs seek an emergency hearing and entry of a temporary restraining order to be followed by a preliminary injunction, enjoining defendants from, *inter alias*, the manufacture, sale, distribution, shipping, marketing, promoting, advertisement and otherwise offer for sale of defendants' "Gatorlyte" beverage products.

Plaintiffs' motion involves defendants' planned launch of a new product – defendants' "Gatorlyte" ready to drink rehydration beverage – *this Sunday, February 21, 2021*. Defendants' Gatorlyte product infringes plaintiffs' intellectual property rights and will directly – and unfairly – compete with plaintiffs' Electrolit® brand of premium hydration beverages. Plaintiffs first learned of Defendants' plan to launch this product late on Friday of last week. Due to the holiday this past Monday, plaintiffs' first opportunity to discuss with counsel took place on Tuesday. Before proceeding, plaintiffs had to review the issues and obtain corporate approval to proceed with this action– which they did in less than 24 hours – after which plaintiffs' counsel prepared and filed the present motion, concurrently filed complaint, and supporting documents within the next 24 hours.

We regret the need to request a hearing on such short notice and understand and appreciate the time and effort that the Court will expend, but the urgency is a result of defendants conduct – it chose to intentionally and unlawfully violate plaintiffs' Electrolit® product – and if it is not enjoined from launching this product this Sunday, plaintiffs will be irreparably harmed. We are concurrently reaching out to defendants' counsel to confirm whether or not they still intend to launch the offending product this Sunday. If defense counsel confirms that the launch will not

occur, we will immediately inform the Court so that a continuance of the emergency hearing may occur. We will be requesting that defendants' counsel confirm the status of the launch by 9:00am eastern tomorrow (Friday, February 19, 2021) and will update the Court immediately thereafter. We understand that the Court has had closures due to inclement weather and appreciate its urgent attention to this matter.

A memorandum of law and supporting declaration and exhibits are filed concurrently with this motion and incorporated herein. The grounds for the relief requested are set forth in detail in the memorandum of law and the supporting materials cited in the memorandum of law. A proposed order setting forth the relief requested is being filed concurrently.

Plaintiffs, by and through their counsel, shall appear at the Court's earliest convenience before the U.S. District Court for the Southern District of Texas to present Plaintiffs' Emergency Motions for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction.

Dated: February 18, 2021

Respectfully submitted,

By: s/ Samuel P. Bragg

Samuel P. Bragg, Attorney-in-Charge

State Bar No.: 24097413 (Texas)

S.D. Tex. Bar No.: 3395594

ALSTON & BIRD LLP

2200 Ross Avenue Suite 2300

Dallas, TX 75201

Tel: 214-922-3400 / Fax: 214-922-3899

sam.bragg@alston.com

Motion for Admission Pro Hac Vice to be Filed

Paul Tanck

State Bar No.: 4298840 (New York)

Greg Carbo

State Bar No.: 4460101 (New York)

Neal McLaughlin

State Bar No.: 4732020 (New York)

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Attorneys for Plaintiffs